

(1) Bridgestone/Firestone, a subsidiary of foreign owned Bridgestone Corp., has recently announced its decision to hire permanent replacement workers displacing more than 2,000 American workers;

(2) this action may result in the largest permanent displacement of workers in over a decade;

(3) the practice of hiring permanent replacement workers is devastating, not only to the replaced workers, but also to their families and communities;

(4) the position of management of foreign owned Bridgestone/Firestone appears to be that they cannot compete with their American owned competitor, Goodyear, if they provide wages, benefits, and conditions of employment benefits patterned after those provided by Goodyear;

(5) hiring permanent replacement workers is illegal under the laws of the parent company's own country; and

(6) most of the United States' major trading partners, including, Japan, Germany, France, and Canada recognize that using permanent replacements is bad business and bad public policy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Bridgestone/Firestone should reconsider its decision to hire permanent replacement workers and return to the bargaining table and bargain in good faith with the United Rubberworkers of America, the representative of their employees; and

(2) the Clinton Administration, working through the appropriate diplomatic channels and using the appropriate trade negotiations, should impress upon the parent company's home government the concern of the United States over this matter and seek their assistance in getting Bridgestone/Firestone to reconsider their decision.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, January 6, 1995, to conduct a hearing to examine issues involving municipal, corporate and individual investors in derivative products and the use of highly leveraged investment strategies.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Friday, January 6 for a markup on S. 1, unfunded mandates.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### PROPERTY RIGHTS LITIGATION RELIEF ACT

• Mr. HATCH. Mr. President, on January 4, 1995, I introduced S. 135, the Property Rights Litigation Relief Act of 1995. Because of the great interest shown in the bill, I ask that it be printed in the RECORD at this point.

The bill follows:

S. 135

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Property Rights Litigation Relief Act of 1995".

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) the private ownership of property is essential to a free society and is an integral part of the American tradition of liberty and limited government;

(2) the framers of the United States Constitution, in order to protect private property and liberty, devised a framework of Government designed to diffuse power and limit Government;

(3) to further ensure the protection of private property, the fifth amendment to the United States Constitution was ratified to prevent the taking of private property by the Federal Government, except for public use and with just compensation;

(4) the purpose of the takings clause of the fifth amendment of the United States Constitution, as the Supreme Court stated in *Armstrong v. United States*, 364 U.S. 40, 49 (1960), is "to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole";

(5) the Federal Government, in its haste to ameliorate public harms and environmental abuse, has singled out property holders to shoulder the cost that should be borne by the public, in violation of the just compensation requirement of the takings clause of the fifth amendment of the United States Constitution;

(6) there is a need to both restrain the Federal Government in its overzealous regulation of the private sector and to protect private property, which is a fundamental right of the American people;

(7) the incremental, fact-specific approach that courts now are required to employ in the absence of adequate statutory language to vindicate property rights under the fifth amendment of the United States Constitution has been ineffective and costly and there is a need for Congress to clarify the law and provide an effective remedy;

(8) certain provisions of sections 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act), that delineates the jurisdiction of courts hearing property rights claims, complicates the ability of a property owner to vindicate a property owner's right to just compensation for a governmental action that has caused a physical or regulatory taking;

(9) current law—

(A) forces a property owner to elect between equitable relief in the district court and monetary relief (the value of the property taken) in the United States Court of Federal Claims;

(B) is used to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims; and

(C) is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should seek equitable relief in district court;

(10) property owners cannot fully vindicate property rights in one court;

(11) property owners should be able to fully recover for a taking of their private property in one court;

(12) certain provisions of section 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act) should be amended, giving both the district courts of the United States and the Court of

Federal Claims jurisdiction to hear all claims relating to property rights; and

(13) section 1500 of title 28, United States Code, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and made by the same plaintiff, should be repealed.

#### SEC. 3. PURPOSE.

The purpose of this Act is to—

(1) encourage, support, and promote the private ownership of property by ensuring the constitutional and legal protection of private property by the United States Government;

(2) establish a clear, uniform, and efficient judicial process whereby aggrieved property owners can obtain vindication of property rights guaranteed by the fifth amendment to the United States Constitution and this Act;

(3) amend certain provisions of the Tucker Act, including the repeal of section 1500 of title 28, United States Code;

(4) rectify the constitutional imbalance between the Federal Government and the States; and

(5) require the Federal Government to compensate property owners for the deprivation of property rights that result from State agencies' enforcement of federally mandated programs.

#### SEC. 4. DEFINITIONS.

For purposes of this Act the term—

(1) "agency" means a department, agency, independent agency, or instrumentality of the United States, including any military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the United States Government;

(2) "agency action" means any action or decision taken by an agency that—

(A) takes a property right; or

(B) unreasonably impedes the use of property or the exercise of property interests or significantly interferes with investment-backed expectations;

(3) "just compensation"—

(A) means compensation equal to the full extent of a property owner's loss, including the fair market value of the private property taken and business losses arising from a taking, whether the taking is by physical occupation or through regulation, exaction, or other means; and

(B) shall include compounded interest calculated from the date of the taking until the date the United States tenders payment;

(4) "owner" means the owner or possessor of property or rights in property at the time the taking occurs, including when—

(A) the statute, regulation, rule, order, guideline, policy, or action is passed or promulgated; or

(B) the permit, license, authorization, or governmental permission is denied or suspended;

(5) "private property" or "property" means all property protected under the fifth amendment to the Constitution of the United States, any applicable Federal or State law, or this Act, and includes—

(A) real property, whether vested or unvested, including—

(i) estates in fee, life estates, estates for years, or otherwise;

(ii) inchoate interests in real property such as remainders and future interests;

(iii) personalty that is affixed to or appurtenant to real property;

(iv) easements;

(v) leaseholds;

(vi) recorded liens; and

(vii) contracts or other security interests in, or related to, real property;

(B) the right to use water or the right to receive water, including any recorded lines on such water right;